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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,397	02/09/2004	Steven George Hansen	081468-0307720	6619

909 7590 08/10/2005

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EXAMINER

MATHEWS, ALAN A

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/773,397	Applicant(s) HANSEN, STEVEN GEORGE	
	Examiner Alan A. Mathews	Art Unit 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28, 29, 53 and 55-57 is/are rejected.
- 7) ☒ Claim(s) 27, 30-52, 54, 58 and 59 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/04; 5/10/04; 8/27/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 13 objected to because of the following informalities: In claim 13, there is no proper antecedent basis for “the resist model”, since claim 12, from which claim 13 depends, only recites “a simulation model comprises choosing a resist process”. Applicant should more clearly correlate “the resist model” in claim 13 with what is recited in claim 12. Appropriate correction is required.

Double Patenting

2. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,839,125. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-13 of U.S. Patent No. 6,839,125 discloses all the steps of claims 1-14 of the instant application. It is noted that choosing a resist model as recited in claim 1 of U.S. Patent No. 6,839,125 is choosing a simulation model as recited in claim 1 of the instant application.

3. Claims 1, 13-26, 28, 29, 53, and 55 - 57 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12, 14, 15, 22, 23, and 24 of copending Application No. 10/716,439. Although the conflicting

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claims are not identical, they are not patentably distinct from each other because all the steps and apparatus and machine readable medium in claims 1, 13-26, 28, 29, 53, 55, and 56 of the instant application are disclosed in 1-12, 14, 15, 22, 23, and 24 of copending Application No.

10/716,439. For example, the steps of claim 1 of the instant application are disclosed in claim 1 of copending Application No. 10/716,439. And steps in claims 15-26 of the instant application are disclose claims 1-12 of copending Application No. 10/716,439. And claims 28, 29, 53, 55, and 56 of the instant application are disclosed in claims 14, 15, 22, 23, and 24, respectively, of copending Application No. 10/716,439. And claim 57 of the instant application corresponds to claim 24 of copending Application No. 10/716,439.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

4. Claims 1-59 would be allowed subject to filing a proper terminal disclaimer and correcting the objection to claim 13. Claims 27, 30-52, 54, 58, and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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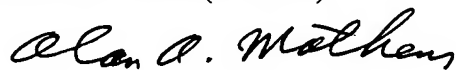
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited in the PTO-1449s are cited for the same reasons they were cited in Applicant's IDS's.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan A. Mathews whose telephone number is (571) 272-2123. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan A. Mathews
Primary Examiner
Art Unit 2851

AM